

## **“Registration of Copyrights in software program in India”**

In India, the Intellectual Property Rights (IPR) of computer software is covered under the Copyright Law. Accordingly, the copyright of computer software is protected under the provisions of Indian Copyright Act 1957.

Copyright is a form of intellectual property protection granted to the creators of original works of authorship such as literary works (including computer programs, tables and compilations including computer databases which may be expressed in words, codes, schemes or in any other form, including a machine readable medium), dramatic, musical and artistic works, cinematographic films and sound recordings.

Computer program are literary works under the definition in the Copyright Act. A “computer program” is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result. Copyright for computer programs prohibits copying of program structure and design.

The rights available through Copyright protection:

Copyright owners have the exclusive right to do or authorise the doing of any of the following in respect of a work or any substantial part thereof:

- ❖ To reproduce the work in any material form including the storing of it in any medium by electronic means;
- ❖ To issue copies of the work to the public not being copies already in publication;
- ❖ To perform the work in public, or communicate it to the public;
- ❖ To make any cinematographic film or sound recording in respect of the work;
- ❖ To make any translation of the work;
- ❖ To make any adaptation of the work;
- ❖ To do, in relation to a translation or adaptation of the work.
- ❖ To sell or give on hire, or offer for sale or hire a copy of the computer program, regardless of whether such copy has been sold or given on hire on earlier occasions. It may be noted that Copyright confers a number of rights, some or all of which can be granted to others either exclusively or non-exclusively.

### **Use/Advantage of registration with the Copyright Office:**

Registration with the Copyright office is helpful in an infringement suit. As per the Copyright Act, the Registers of Copyrights shall be prima facie evidence of the particulars entered therein and documents purporting to be copies of any entries therein, or extracts there from certified by the Registrar of Copyrights and sealed with the seal of the Copyright Office shall be admissible in evidence in all courts without proof or production of the original.

To file a Copyright application for your software with Copyright Office Delhi, a Form XIV would be required which includes Statement of Particulars and Statement of Further Particulars. All the details in the form to be filled very precisely. Error in the forms will lead to the discrepancies and raising of questions by Copyright office at the later stage of registration. So, it is recommended that take a professional help for your ease of registration.

### **Copyright registration in India - A detailed process:**

The process for registering copyright involves the following steps:

**Step 1:** The copyright registration application has to be filed in the concerned forms with the Copyright Registrar, mentioning the particulars of the work.

Depending on the type of work, separate copyright applications may have to be filed.

Details like name of applicant with address, nature of interest, title, language, description of the work, publication details, particulars in respects of rights over the work, NOC, POA, etc will be required for the purpose. Source codes and Object codes are required to be submitted in machine readable formats.

**Step 2:** Once the application is submitted, you will be issued the Diary number.

**Step 3:** There is a waiting period of 30 days within which the Copyright Examiner reviews the application for potential discrepancies and/or objections.

**Step 4:** If discrepancy and/or objections are found, discrepancy notice will be issued and the same needs to have complied within 30 days from the date of issuance of the notice.

**Step 5:** Once the discrepancy has been removed or if there are no discrepancies or objections, the copyright shall be registered and the Copyright Office shall issue the Extracts of Register of Copyrights (ROC) which is nothing but the Registration Certificate.

**Deposit requirement for Copyright registration purposes:** The Copyright Law requires the deposit of three complete copies of works whether published or unpublished. Submissions of works to be in machine-readable form only, i

**Source Code and Object Code:** Although copyright comes into being with the writing of the source code, it is the object code which gives the actual instructions that control the computer when the program is being executed which is generally protected by copyright. In most instances, the source code is never revealed to the public, and thus remains protected as a trade secret even though millions and millions of copies of the program are distributed as object code. The source code contains information that makes it easier for a programmer to write or understand the program.

## **Infringement of Copyrighted Software:**

Infringement of copyrighted software is called Software piracy. Software piracy is the reproduction, distribution or use of a software product without the expressed permission of its author. Software piracy is theft/stealing someone else's original idea and product. It comes in the following common forms:

**End user piracy:** End users (both home and corporate users) who are using unlicensed software on their systems, or who have installed more copies than they are entitled to under their license agreements, e.g. a company with only one license installing the software on five PCs. This form of end user piracy is called under-licensing and is of grave concern to the Business Software Alliance (BSA).

**Hard disk loading:** Computer dealers pre-installing illegal copies of software onto PCs prior to sale. Some dealers use one legally acquired copy but install it on many machines. These PCs are usually sold without any form of licensing documentation or disks.

**Software counterfeiting:** The illegal duplication and sale of software in a form that is almost identical to the genuine product.

**Internet piracy:** The latest and fastest growing form of software piracy. Software programs are placed by third parties on the Internet for downloads free of charge or for a fee. Pirates tend also to use the Internet as a means of advertising to solicit sales.

## **Protection of Copyright Software**

Generally, copyright laws protect the form of expression of an idea, but not the idea itself. With respect to software, this typically means that the computer program, in both human-readable i.e. Source Code and machine-executable form i.e. Object Code, and the related manuals are eligible for copyright protection, but the methods and algorithms within a program are not protected expression. Source code and object code are protected against literal copying.

## Copyright Apply Registration Mandatory

